

**Before the
Federal communications Commission
Washington, DC 20554**

In the Matter of)	
)	
Request for Review of the)	
Decision of the)	
Universal Service Administrator by)	
)	
Mirreri Yeshiva Educational Institute)	File No. SLD-226530
Brooklyn, New York)	
)	
Federal-State Joint Board on)	CC Docket No. 96-45
Universal Service)	
)	
Changes to the Board of Directors of the)	CC Docket No. 97-21✓
National Exchange Carrier Association, Inc.)	

ORDER

Adopted: January 14,2003**Released: January 15,2003**

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. The Telecommunications Access Policy Division has under consideration a Request for Review filed by Mirrer Yeshiva Educational Institute (Mirrer Yeshiva), Brooklyn, New York.¹ Mirrer Yeshiva seeks review of a decision issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator) to reject Mirrer Yeshiva's appeal on the grounds that it was untimely filed.² For the reasons set forth below, we deny Mirrer Yeshiva's Request for Review.

2. SLD issued a Funding Commitment Decision Letter on August 7,2001, granting Mirrer Yeshiva's request for discounted services under the schools and libraries universal service support mechanism.³ Specifically, SLD modified the amount funded for Mirrer Yeshiva's request for discounts for telecommunications services, Funding Request Number (FRN) 522622, to reflect the documentation provided by Mirrer Yeshiva.⁴ On September 28, 2001, Mirrer

¹ Letter from Maita Rosenblum, Mirrer Yeshiva Educational Institute, to Federal Communications Commission, filed February 20,2002 (Request for Review).

² Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of the Administrator may seek review from the Commission. 47 C.F.R. § 54.719(c).

³ Letter from Schools and Libraries Division, Universal Service Administrative Company, to Maita Rosenblum, Mirrer Yeshiva Educational Institute, dated August 7, 2001 (Funding Commitment Decision Letter).

⁴ *Id.*

Yeshiva filed an appeal of SLD's decision. In its appeal, Mirrer Yeshiva asserts that the approved pre-discount amount of \$3,496.08 does not match its requested amount of \$9,600.⁵ On October 15, 2001, SLD issued an Administrator's Decision on Appeal, indicating that it would not consider Mirrer Yeshiva's appeal because it was received more than 30 days after the August 7, 2001 Funding Commitment Decision Letter was issued.⁶ Mirrer Yeshiva subsequently filed the instant Request for Review with the Commission.

3. For requests seeking review of decisions issued before August 13, 2001 under section 54.720(b) of the Commission's rules, an appeal must be filed with the Commission or SLD within 30 days ~~of~~ the issuance of the decision that the party seeks *to* have reviewed.⁷ Documents are considered to be filed with the Commission or SLD only upon receipt.⁸ The 30-day deadline contained in section 54.720(b) of the Commission's rules applies to all such requests for review filed by a party affected by a decision issued by the Administrator.⁹ Because Mirrer Yeshiva failed to file an appeal of the August 7, 2001 Funding Commitment Decision Letter within the requisite 30-day appeal period, we affirm SLD's decision to dismiss Mirrer Yeshiva's appeal to SLD as untimely and deny the instant Request for Review.

4. To the extent that Mirrer Yeshiva is requesting that we waive the 30-day deadline established in section 54.720(b) of the Commission's rules, we deny that request as well.¹⁰ The Commission may waive any provision of its rules, but a request for waiver must be supported by a showing of good cause.¹¹ Mirrer Yeshiva has not shown good cause for the untimely filing of its initial appeal. Mirrer Yeshiva explains that the school was closed in the summer and its mail was not opened and reviewed until well after it was actually received.¹² As a result, Mirrer Yeshiva allowed the 30-day appeal period to pass without filing a timely appeal.

⁵ Letter from Maita Rosenblum, Mirrer Yeshiva Educational Institute, to Schools and Libraries Division, Universal Service Administrative Company, filed September 28, 2001 (Request for Administrator Review).

⁶ Letter from Schools and Libraries Division, Universal Service Administrative Company, to Maita Rosenblum, Mirrer Yeshiva Educational Institute, dated October 15, 2001 (Administrator's Decision on Appeal).

⁷ 47 C.F.R. § 54.720(b)

⁸ 47 C.F.R. § 1.7.

⁹ We note that, due to recent disruptions in the reliability of the mail service, the 30-day appeal period has been extended by an additional 30 days for requests seeking review of decisions issued on or after August 13, 2001. *See Implementation of Interim Filing Procedures for Filings of Requests for Review, Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Order, FCC 01-376 (rel. Dec. 26, 2001), as corrected by *implementation of Interim Filing Procedures for Filings of Requests for Review, Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Errata (Com. Car. Bur. rel. Dec. 28, 2001 and Jan. 4, 2002); SLD web site, What's New (January 20, 2002), <<http://www.sl.universalservice.org/whatsnew/012002.asp#extend3ed>>. Because the August 7, 2001 Funding Commitment Decision Letter was issued before August 13, 2001, the extended appeal period does not apply to Mirrer Yeshiva.

¹⁰ *See* 47 C.F.R. § 54.720(b)

¹¹ *See* 47 C.F.R. § 1.3.

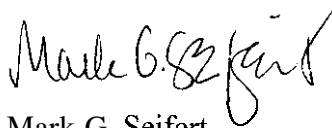
¹² Request for Review

5. We conclude that Mirrer Yeshiva has not demonstrated a sufficient basis for waiving the Commission's rules. Waiver is appropriate if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the general rule.¹³ In requesting funds from the schools and libraries universal service support mechanism, the applicant has certain responsibilities. The applicant bears the burden of submitting its appeals to SLD within the established deadline if the applicant wishes its appeals to be considered on the merits.

6. The particular facts of this case do not rise to the level of special circumstances required for a deviation from the general rule. In light of the thousands of applications that SLD reviews and processes each year, it is administratively necessary to place on the applicant the responsibility of adhering strictly to its filing deadlines.¹⁴ In order for the program to work efficiently, the applicant must assume responsibility for timely submission of its appeal to SLD if it wishes its appeals to be considered on the merits. Such responsibility extends to the action or inaction of those employees, consultants and other representatives to whom the applicant gives responsibility for submitting timely appeals of SLD funding decisions on its behalf. Here, Mirrer Yeshiva fails to present good cause as to why it could not timely file its appeal to SLD. We therefore find *no* basis for waiving the appeal filing deadline.

7. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, 1.3, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, and 54.722(a), that the Request for Review filed by Mirrer Yeshiva Educational Institute, Brooklyn, New York on February 20, 2002, and the request to waive the 30-day time limit in which to file an appeal ARE DENIED.

FEDERAL COMMUNICATIONS COMMISSION



Mark G. Seifert
Deputy Chief, Telecommunications Access Policy Division
Wireline Competition Bureau

¹³ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990)

¹⁴ See *Request for Review by Anderson School Staatsburg, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-133664, CC Docket Nos. 96-45 and 97-21, Order, 15 FCC Rcd 25610 (Com. Car. Bur. rel. Nov. 24, 2000), para. 8 ("In light of the thousands of applications that SLD reviews and processes each funding year, it is administratively necessary to place on the applicant the responsibility of understanding all relevant program rules and procedures.").